



IN THE SUPREME COURT  
OF THE  
WESTERN DISTRICT OF PENNSYLVANIA

Jessica E. Wolfe

Petitioner

Vs.

Court of Common Pleas  
of Allegheny County in the  
Fifth Judicial District of Pa

Respondents

Civil Action

No. 103 WM 2002

APPLICATION FOR LEAVE TO FILE  
ORIGINAL PROCESS

To the Honorable, Chief Justice[s] of the Supreme Court:

Comes Now, Jessica E. Wolfe, Petitioner Pro se in accordance with Rule 3307, 3309 of the Rules of Appellate Procedure, moves this Court and invokes Original Jurisdiction under and by virtue of: 42 Pa.C.S.A. § 502, § 721 and § 726, thus respectfully requesting leave to file original process in this Honorable Court.

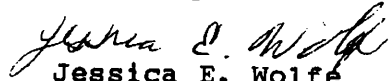
The matters in controversy has fallen upon this Honorable Court when the Commonwealth of Pennsylvania Department of Corrections breached the petitioner's Negotiated Plea Agreement, subsequently petitioner's P.C.R.A. has been time barred and she seeks the issuance of a Writ of Mandamus upon the Court of Common Pleas or other appropriate Extraordinary Relief, for no other adequate remedy exists and the Trial Court has an obligated duty to act and uphold the Plea Agreements that it makes with an accused. Petitioner claims that she has a clearly established right to relief as a matter of law

Wherefore, petitioner requests this Honorable Court to accept the

attached petition, exercising it's Original Jurisdiction, and granting the appropriate relief.

Service of this application and petition for Writ of mandamus, appropriate Extraordinary Relief was served upon all parties by U.S. Certified Mail on: 9 / 25 / 2002.

Respectfully Submitted,



Jessica E. Wolfe  
DB 0954  
Box 244  
Graterford, Pa. 19426

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OF THE  
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Jessica E. Wolfe

Petitioner

Vs.

Court of Common Pleas  
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Fifth Judicial District of Pa

Respondents

Civil Action

No. \_\_\_\_\_

PETITION FOR WRIT OF MANDAMUS

To the Honorable, Chief Justice[s] of the Pennsylvania Supreme Court:

Comes Now, Jessica E. Wolfe, Petitioner Pro se in accordance with Rule 3309(A) of the Pennsylvania Rules of Appellant Procedure, thus respectfully requesting this Honorable Court to issue a Writ of Mandamus or other Extraordinary Relief, and Represents:

1. The instant petition moves this Court to grant a Writ of Mandamus by invoking Jurisdiction under: 42 Pa.C.S.A. § 721(2), pursuant this Court's power to grant Extraordinary Relief under: 42 Pa.C.S.A. § 502(1)(2), § 726.

2. Petitioner, is currently in the custody and care of the State Correctional Institution Graterford, at P.O. Box 244, Graterford, Pa. 19426.

3. On 7-25-96, Petitioner entered into Negotiated Plea Agreement for various reasons and promises set forth in the Plea Transcripts that is (attached herewith) found at Docket No. CP 9-6-0-4-2-6-0 / 9-6-0-4-2-3-9.

4. Petitioner, received a mandatory 5 year minimum, 15 year maximum that is to be served at the State Correctional Institution at Pittsburgh so that the petitioner could be close to her family and friends. See Plea

Transcript at: Page 12, line 20 to line 22,- Stating "you stand committed to the State Correctional Institution at Pittsburgh, Etc." **EXHIBIT A.**

5. Petitioner, claims that the Commonwealth of Pennsylvania Department of Corrections has intentionally and arbitrarily breached this Negotiated Plea Agreement for nearly 7 years by not permitting the petitioner to serve her time at S.C.I.-Pittsburgh, violating a lawful procedure of law, namely but not limited to the Pennsylvania and U.S. Constitutions at: Pa. Article 1 § 1,9,13,17,26 - - U.S. 5th,6th,8th,9th,14th Amendments, Etc.

6. Petitioner, claims that she has a clearly established right to relief by Writ of Mandamus, for no other adequate remedy exists as a matter of law.

7. Petitioner, avers that a Writ of Mandamus is an Extraordinary Remedy designed to compel official performance of a Ministerial Act or Mandatory Duty where there exists a clear legal right and where petitioner has no other legal remedy adequate or available at law. See: 42 Pa.C.S.A. § 976.

8. Petitioner, avers that the Court of Common Pleas has a legal duty that compel's official performance of it's ministerial duties, because "upon acceptance of a plea agreement,- - the trial court is bound to comply with the terms of that agreement: Com. V. Anderson, 643 A.2d. 109, 113 n.6 (1994) Com. V. Daniels, 656 A.2d. 539, at 543 n.6 (1995).

9. Petitioner, in addition claims under newly discovered evidence that the Commonwealth of Pennsylvania Board of Probation and Parole has also breached the petitioner's plea agreement in accordance with: **EXHIBIT B,:** Com. V. Robert Snodgrass, C.P. Chester County, Civil Action No. 0799-96.

10. The Third Circuit Court held that "the government must adhere strictly to the terms of the bargain it strikes with a defendant.": U.S. V. Hayes, 946 F.2d. 230, at 233 (1991), because when "a plea agreement

occurs in a criminal context, it remains contractual in nature and is to be analyzed under contract-law standards.:"

U.S. V. Moscahlads, 868 F.2d. 1357 (3rd Cir. 1989),

Com. V. Kroh, 654 A.2d. 1168, at 1172 (1995). So, "in Pennsylvania, it is well settled that 'where a plea bargain has been entered into and is violated by Commonwealth, defendant is entitled at the least, to the benefit of the bargain.'" Com. V. Zuber, 353 A.2d. 441, at 444 n.5 (1976),

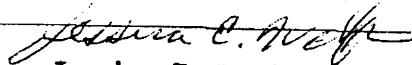
Com. V. Williams, 481 A.2d. 1230, at 1233 (1984).

Wherefore, petitioner respectfully prays for this Honorable Court to Grant the relief sought by issuing an Order of Writ of Mandamus or other Extraordinary Relief, directing the respondent[s] to act in "Specific Performance" of their legally mandatorily required official ministerial duties, up holding and enforcing the petitioner's Negotiated Plea Agreement.

#### VERIFIED STATEMENT

I Jessica E. Wolfe, verify that the statements made herein are true and correct to the best of my knowledge and beliefs. I understand that false statements herein are subjected to the penalties of: 18 Pa.C.S.A. § 4904, relating to unsworn falsification to authorities.

Respectfully Submitted,



Jessica E. Wolfe  
DB 0954  
Box 244  
Graterford, Pa. 19426

Dated: 9 / 25 / 2002.

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2  
3 IN THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY, PENNSYLVANIA  
4

5 COMMONWEALTH OF PENNSYLVANIA CRIMINAL DIVISION

6 VS.

NO. 9604239

9604260

7 JAMES WOLF a/k/a  
8 JESSICA WOLF,

Plea Transcript

Defendant.

Before:

HON. WALTER R. LITTLE

Date:

July 25, 1996

Reported by:

SUSAN E. LLOYD

Official Court Reporter

COUNSEL OF RECORD:

For The Commonwealth:

EDWARD BORKOWSKI, Esquire  
Assistant District Attorney

For The Defendant:

ELISE DeLONG, Esquire  
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P R O C E E D I N G S

(Thereupon, the witnesses were sworn.)

THE COURT: All right, do you have any agreement in these cases?

MR. BORKOWSKI: Yes, there is, Judge. As to the multiple count indictment wherein Katie Dickman is the victim of rape, IDSI, et cetera, he would be pleading guilty to Count 1 of rape for a sentence of a mandatory five, plus whatever tail Your Honor wishes to impose on that.

As to the second information wherein Larry Dickman is the victim, we would withdraw the first two counts, the assault and endangering the welfare of children, and the Defendant would be pleading guilty to Count 3, which is the corruption of minors charge.

The proposed sentence in that case would be a period of probation to be set by the Court, in addition to the sentence at the first information. As a condition of that probation, also a term of incarceration, that the Defendant have no contact with Johna Dickman, Larry Dickman or Katie Dickman directly or

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2 indirectly.

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4 Also, we are requesting that the Court  
5 indicate to him that any contact to or for  
6 his natural children, James Wolf, John Wolf  
7 or Franceska Wolf be initiated and negotiated  
8 through an attorney or appropriate Child  
9 Welfare representatives.

10 I would note in contemplation and  
11 fulfillment of that plea agreement it was done  
12 in conjunction with the mother of the victim,  
13 Johna Dickman, the Allegheny County Police and  
14 Chief Robert from Oakdale. They are in agree-  
15 ment with the same.

16 THE COURT: All right. I would also  
17 note for the record that at the defense's  
18 request at the time of this case, the subpoena  
19 of the records from CYS, the Court reviewed all  
20 the records that were submitted to me by CYS.  
21 That was three packets, Packet A, B, and C,  
22 and in a review of those records indicate that  
23 no information in those packets would present  
24 any type of evidence that would be exculpatory  
25 to the Defendant.

MR. BORKOWSKI: One further thing as a



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technical matter, Judge, the informations read on or about August 3, 1995. The complaint and the information filed subsequent to that complaint, the dates of the alleged crimes were from summer of 1994 through spring of 1995.

THE COURT: Do you have any objections to the amendment as to the dates in the information, counsel?

MS. DeLONG: No, Your Honor, we do not.

COLLOQUY

BY THE COURT:

Q Mr. Wolf, do you understand at Criminal Action 9604260 the Commonwealth is going to move to withdraw Counts 2, 3, 4, 5, 6 in return for your plea to Count 1, rape, graded as a felony of the third degree, carries a maximum incarceration of up to 20 years and a \$25,000 fine; specifically in this information it states on or about the date, in question, August 3, 1995, that you engaged in sexual intercourse with one Katie Dickman, who was less than 13 years of age, and in violation of Section 3121.6 of the Pennsylvania Crimes Code.

At Criminal Action 9604239 the Commonwealth is

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going to move to withdraw Count 1, aggravated assault, Count 2, endangering the welfare of a child in return for your plea to one count of corruption of minors, graded as a misdemeanor of the first degree, carries a maximum incarceration of five years and/or a \$10,000 fine.

So running both these cases together, a maximum period of incarceration you could receive in these two cases is up to 25 years and the fine is \$35,000.

Specifically in this information at 9604239, at Count 3, corruption of minors, it states that on or about the dates in question -- did we mention the dates would be the same on both informations, and would be from the summer of 1994 through the spring of 1995.

As to the corruption of minors, states that you being 18 years of age and upwards did corrupt or tended to corrupt the morals of one Larry Dickman, a child under the age of 18 years, by acts of placing makeup on the child's face and having him wear a dress, and the dates of the incident at 9604260, again are all in the summer of 1994 through the spring of 1995.

All right, Mr. Wolf, do you understand the

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nature of the charges against you and the maximum penalties and fines that could be imposed if, in fact, you went to trial? Do you understand that?

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A Yes.

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Q Now, it is my understanding that you understand your rights to a jury trial, non-jury trial in this matter, you wish to waive both and enter a plea of guilty. This Court would then enter a waiver of presentence report, and this Court would enter a sentence in accordance with the plea bargain worked out between yourself, your attorney and the District Attorney's Office; is that correct?

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A Yes.

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Q I have before me this guilty plea explanation form which you read, signed and filled out in consultation with your attorney, indicates to you what a guilty plea is, what it means to give up your rights to a jury trial and a non-jury trial, and in order for you to do so you have to do so knowingly, voluntarily, and intelligently; is that correct?

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A Yes.

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Q Now, in this form it explains to you exactly what a jury trial and a non-jury trial is, what rights you give up when you plead guilty and waive your

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right to jury trial and non-jury trial; is that

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correct?

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A Yes.

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Q Now, do you have any questions as to what a jury trial or non-jury trial is, or what rights you give up when you plead guilty? Any questions?

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A No, sir.

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Q In this form it explains to you when you plead guilty you limit your rights to appeal to one, filing of a motion to withdraw your guilty plea within ten days of the date of sentencing in writing to this Court, challenging the validity of your plea. Do you understand that?

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A Yes.

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Q You also have the right to appeal the sentence I impose only on four grounds: One, this Court did not have jurisdiction; two, the sentence was illegal;

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three, your plea is not knowingly, voluntarily, or intelligently given; and fourth, you were represented by incompetent, or ineffective counsel. Do you understand that?

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A Yes.

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Q Do you understand that when you plead guilty the only thing that remains to be done is the Commonwealth

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A Yes.

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A No, sir.

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Q Have you had any drugs or alcohol in the last 24 hours?

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A No, sir.

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Q Knowing all of what I want over today, having read this guilty plea explanation form which you signed and initialed in consultation with your attorney,

19

do you still wish to plead guilty today?

20

A Yes, sir.

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THE COURT: All right, take a summary.

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MR. BORKOWSKI: As to the two victims

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in this case, Katie Dickman has a birth date of 6-20-1986 and Larry Dickman a birth date of 10-21-1984. The Defendant in this case was

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the common law husband of one Johna Dickman living in the Oakdale area with Johna Dickman, Katie Dickman, Larry Dickman and three children of their own, that is Johna Dickman and the Defendants at that time, approximately encompassing a nine year span.

When Katie Dickman became eight years old it was in the summer of 1994, and in the months that followed, as outlined earlier, the Defendant would call her into the parents' bedroom, and at that time remove her clothing, that is the bottom half of her clothing, whatever it may have been, and at that time have her get on top of him, himself being disrobed. He would separate the outer genitalia, her outer genitalia with his fingers and insert his penis into her vagina.

During this time she said that it happened on at least three or four occasions that she can remember. Also during this period of time Ms. Johna Dickman was employed outside the home, giving the Defendant access to the children during the daytime hours and when they returned home from school.

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2 Katie Dickman would also testify that the  
3 penetration hurt her, and that following this  
4 she noticed white stuff, yucky white stuff or  
5 yellow stuff coming out of the Defendant's  
6 private part, which she identified as a penis  
7 through dolls and other anatomical descriptions.

8 The case as to Larry Dickman indicated  
9 during or about that same period of time as  
10 outlined in the amended information dates,  
11 that Larry would be called in to the Defendant's  
12 presence, again when Mrs. Dickman was working,  
13 and he would be made up with lipstick, eyelash  
14 material and eye shadow, and also pink stuff,  
15 blush or whatever was available in the home,  
16 that is most likely and identified as the  
17 makeup kit of Johna Dickman.

18 The various makeup matters previously  
19 referred to were put on the face of Larry  
20 Dickman at or about the same time the Defendant  
21 also got clothing from Katie Dickman's room  
22 and had Larry Dickman dress in that, his  
23 sister's clothing. At that time he would be  
24 taken into a different room and they would  
25 lunch together, the Defendant dressed as a male

11

and Larry Dickman in that female clothing and  
makeup.

Larry Dickman states that this happened  
approximately six or eight times.

BY THE COURT:

Q All right. Mr. Wolf, you have heard that summary?

A Yes, sir.

Q Any additions or corrections to that summary?

A I don't understand.

Q Any additions or corrections to the summary that he  
just read as to both cases?

A No, I don't.

Q So why are you pleading guilty to these two cases?

A I did it.

Q All right, you are pleading guilty because you are,  
in fact, guilty?

A Yes.

THE COURT: All right. I accept your  
pleas. Counsel, what do you have on behalf of  
your client in terms of sentencing?

MS. DeLONG: Yes, Your Honor. We would  
concur with the sentence the Commonwealth has  
proposed in this matter.

THE COURT: Anything from the Commonwealth?



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MR. BORKOWSKI: Nothing if the plea is  
accepted.

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THE COURT: Mr. Wolf, anything to say  
prior to sentencing?

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MR. WOLF: No.

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THE COURT: All right, at Criminal  
Action 9604260 wherein you pled guilty to one  
count of rape, in accordance with the plea  
bargain worked out between yourself, the  
attorney and the District Attorney's Office,  
sentence of the Court is as follows: You pay  
the costs of prosecution, you have no contact  
with the victim in this case, Larry Dickman,  
Johna Dickman, Katie Dickman; also have no  
contact with the natural children except for  
through your attorney, Child Welfare or through  
the Family Division of the Court of Common Pleas  
of Allegheny County; and at this information,  
at 9604260 you stand committed to the State  
Correctional Institution at Pittsburgh, not  
less than five nor more than 15 years.

Now, at Criminal Action 9604239 wherein  
you pled guilty to one count of corrupting  
minors, at Count 3, again you pay the costs of

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prosecution, undergo a probationary period of  
3 five years to run consecutive with the sentence  
4 that I have imposed at 9504260, with the same  
5 conditions.

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All right, do you understand the nature  
7 of your sentence?

8

MR. WOLF: Yes, sir.

9

THE COURT: Do you have any questions?

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MR. WOLF: No, sir.

11

THE COURT: You have a right to file a  
12 motion to withdraw your guilty plea on both  
13 these cases within ten days from this date in  
14 writing to this Court challenging the validity  
15 of your plea. Failure to do so within the  
16 required periods of time, you will forever lose  
17 that right. Do you understand that?

18

You can also appeal the sentence within  
19 30 days to the Superior Court of the Commonwealth  
20 of Pennsylvania, if you feel this Court did not  
21 have jurisdiction, the sentence was illegal,  
22 third, your plea was not knowingly, voluntarily  
23 or intentionally given; fourth, you were  
24 represented by incompetent or ineffective counsel.  
25 Do you understand that?

14

MR. WOLF: Yes.

THE COURT: You also have the right to file a motion to modify your sentence within ten days of this date. Failure to do so within the required period of time, you will forever lose that right. Do you understand that?

MR. WOLF: Yes.

THE COURT: If you cannot afford counsel for purposes of filing a motion to withdraw your guilty plea, a direct appeal to the Superior Court, filing a motion to modify your sentence, this Court will be obligated to appoint counsel to represent you free of charge. Do you understand that?

MR. WOLF: Yes.

THE COURT: All right.

(Thereupon, the proceedings were concluded.)

C E R T I F I C A T E

I, SUSAN E. LLOYD, Official Court Reporter, do hereby certify that to the best of my knowledge, the proceedings and evidence are contained fully and accurately in the record taken by me of the hearing in the previously entitled matter, and that this is a correct transcript of the same.

*Susan E. Lloyd 6-28-99*  
Susan E. Lloyd  
Official Court Reporter

CITE THIS PAGE AS 20 PLW 767

## Defendant Allowed to Withdraw Guilty Plea

Warning that if the Commonwealth doesn't honor its plea agreements the number of criminal trials will increase dramatically, a Common Pleas Court judge has ruled that a defendant can withdraw his guilty plea because he wasn't granted parole at the end of his minimum sentence.

In *Commonwealth v. Snodgrass*, PICS Case No. 97-1206 (C.P. Chester May 9, 1997) Wood, J. (3 pages), Chester County Common Pleas Court Judge Lawrence Wood granted Robert Snodgrass motion to withdraw his guilty plea and said the case should go to trial.

According to the opinion, Snodgrass entered into a plea agreement in July 1996 for DUI, receiving a sentence of one-to-two years. But at the end of his minimum he wasn't granted parole.

"[I]t seems to me to come with ill grace from the Commonwealth to suggest that the promise of a minimum sentence is a mere chimera, and that the parole authorities can arbitrarily withhold parole even if a defendant's conduct has been exemplary," Wood wrote in his opinion.

"Life in the real world also tells me that if the word ever gets around among defendants and their counsel that parole at the expiration of one's minimum *may* be arbitrarily withheld by the state parole board, agreements to state sentences will be much more difficult to come by."

# Chester County Law Reporter

(USPS 102-900)

*The Official Legal Publication for Chester County*

Vol. 45

WEST CHESTER, PENNSYLVANIA, OCTOBER 9, 1997

No. 41

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**CHESTER COUNTY REPORTS**

219

[45 Ches.Co.Rep.

**Commonwealth v. Snodgrass**

**Commonwealth v. Snodgrass**

*Plea agreements - Parole - Minimum sentences - DUI - Post conviction relief.*

1. Plea agreements constitute contracts between the Commonwealth and a defendant, and both parties are obligated to honor the terms of the agreement.
2. Although the grant of parole is discretionary, the Commonwealth should not arbitrarily withhold parole when a defendant's conduct during incarceration has been exemplary and he has served the minimum sentence agreed to in a plea agreement.
3. Defendant pled guilty to driving under the influence, pursuant to a plea agreement calling for a one to two year sentence. Despite his compliance with the conditions of his incarceration, the Commonwealth did not grant him parole at the expiration of his minimum sentence. He then filed a Petition for Post Conviction Relief, seeking permission to withdraw his guilty plea. The Court granted the petition and *Held*, that one of the promises implicit in the contractual obligations which bind the Commonwealth in a plea agreement is that a defendant who faithfully complies with the rules of his incarceration will be admitted to parole at the expiration of the minimum sentence imposed under the agreement.

S. F. C. H.

C.P. Chester County, Civil Action - Law, No. 0799-96; Commonwealth of Pennsylvania v. Robert Snodgrass

*Stuart Suss, for the Commonwealth*

*Timothy Melvin, for the defendant*

Wood, J., May 9, 1997: -

[Editor's Note: Appeal 6/9/97 02465PHL97]

**OPINION**

After consideration of Defendant's Petition for Post Conviction Relief, and hearing arguments of counsel, the Petition is granted, and Defendant is allowed to withdraw his guilty plea.

On July 1, 1996, Defendant pleaded guilty to driving under the influence for the fourth time within a seven year period. The plea was pursuant to an agreement between Defendant and the Commonwealth; the agreement called for Defendant to receive a sentence of 1-2 years, with credit for time served from February 9, 1996.

Defendant has served his one year minimum, and indeed, has, as of this

220

**CHESTER COUNTY REPORTS****Commonwealth v. Snodgrass****219(1997)]**

date, served over three months additional. As far as appears of record, Defendant has complied with all the conditions of his incarceration. There is no reason known to me why he should not have been considered for, and granted, parole at the expiration of his minimum.

Our Superior Court has consistently treated plea agreements as contracts between the Commonwealth and the Defendant, and has consistently reaffirmed that it is obligatory on both parties to honor the promises contained in such agreements: *e.g.*, *Com. v. Kroh*, 440 Pa. Super. 1, 654 A.2d 1168 (1995), and *Com. v. Williams*, 333 Pa. Super. 77, 481 A.2d 1230 (1984). The question is whether part of the promise contained in the plea agreement is a promise that a Defendant will be admitted to parole at the expiration of his minimum, if he faithfully complies with the rules of his incarceration.

I don't see why the Commonwealth should not be held to such a commitment. It is of course understood by knowledgeable Defendants, and by their defense attorneys, that parole is a discretionary matter with the State Parole Board (or the sentencing Judge, in the case of "county" sentences.) However, it seems to me to come with ill grace from the Commonwealth to suggest that the "promise" of a minimum sentence is a mere chimera, and that the parole authorities can arbitrarily withhold parole even if a Defendant's conduct has been exemplary.

Life in the real world also tells me that if the word ever gets around among Defendants and their counsel that parole at the expiration of one's minimum may be arbitrarily withheld by the State Parole Board, agreements to state sentences will be much more difficult to come by. Cases which ordinarily would require sentences within the purview of the State Parole Board will all be tried rather than pleaded, and a system already straining under an incredible caseload will become overburdened to an alarming degree.

**ORDER**

AND NOW May 9, 1997, after consideration of the arguments of counsel in the above matter and based on the foregoing reasoning, leave is granted to the Defendant to withdraw his guilty plea. The matter shall be placed on the trial list for prompt trial.



### PROOF OF SERVICE

I hereby certify that, I am this day serving a true and correct copy of the for going documents upon the following persons in accordance with the Rules of Appellate Procedure, by U.S. First Class Mail:

Mary C. Keane, Esq.  
Administrative Office of Pa. Courts  
1515 Market Street, Suite 1414  
Philadelphia, Pa. 19102

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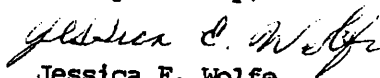
Thomas F. Halloran, Esq.  
Deputy Attorney General  
Office of Attorney General  
6th Floor, Manor Complex  
Pittsburgh, Pa. 15219

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John A. Vaskov, Esq.  
Prothonotary  
Pa. Supreme Court Prothonotary's Office  
Supreme Court of Pennsylvania  
801 City County Building  
414 Grant Street  
Pittsburgh, Pa. 15219-2463

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Respectfully,



Jessica E. Wolfe

DB 0954

Box 244

Graterford, Pa. 19426

Dated: 9 / 25 / 2002.